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EXAMINER

TANG, KUO LIANG J

ART UNIT	PAPER NUMBER
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2122

DATE MAILED: 09/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/931,037	<b>Applicant(s)</b> KONG ET AL.	
	<b>Examiner</b> Kuo-Liang J Tang	<b>Art Unit</b> 2122	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 August 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) *   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/09/02, 9/2/02</u> . | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

1. This Office Action is in response to the application filed on 8/17/2001.

The priority date for this application is 8/17/2001.

Claims 1-23 are pending and have been examined.

***Claim Objections***

2. Claims 2 and 5 are objected to because of the following informalities:

Claim 2 line 2 and Claim 5 line 1, the acronym OMS should be spelled at least once in the body of claim in order to prevent any misinterpretation with other terms in the art that might use the same acronym.

Appropriate correction is required.

***Specification***

3. The disclosure is objected to because of the following informalities:

Page 8, line 13, "OMS module 310", the acronym OMS should be spelled at least once in the body of spec in order to prevent any misinterpretation with other terms in the art that might use the same acronym.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1, 2 and 5 are under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1, recites "source and destination site parameter". It is unclear and indefinite that whether it is only one parameter is for both the source site and destination site or one parameter for source site and/or another parameter for destination site. For art rejection purpose, the examiner interprets it to be "only one parameter is for both the source site and destination site".

Claim 2 line 2 and Claim 5 line 1, recite OMS which is unclear and indefinite because OMS according to search in internet, OMS has the following meanings: Open Music System, Online Marketing Strategies, Ottawa Montessori School, Object management System.

For art rejection purpose, the examiner interprets OMS to be "Object management System".

***35 U.S.C. § 101 reads as follows:***

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

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5. The invention as disclosed in claims 18 and 22 are directed to non-statutory subject matter. While the claims are in the technological arts, they are not limited to “a practical application of an abstract idea which produced a useful, concrete, and tangible result.” State Street Bank & Trust v. Signature Financial Group, Inc., 149 F. 3d 1368, 1375 n. 9 (Fed. Cir. 1998).

Specifically, the claim 18 is directed to a system comprising a profile module and a text extractor module which are software modules and the claim 22 is directed to a system comprising means for generating profiles. This system is thus a system of software components, e.g., software program per se. Thus, Applicants fail to disclose that these software components are tangibly embodied and executed by a piece of hardware and that their functions have practical applications which produce useful, concrete, and tangible results under the State Street Formulation.

On this basis, claims 18 and 22 are rejected under 35 U.S.C. § 101.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Netscape's BuyerXpert product published on June 1999 (see "Industry Slices Up Procurement Pie", page 2, line 7), because the BuyerXpert was acquired by SUN and there is no detailed information can be found in the Netscape web site, therefore the examiner uses the "BuyerXpert 4.1 SP3 Upgrade Guide" (hereinafter BuyerXpert) prior art from SUN Inc. website as a supporting reference.

As Per Claim 1, BuyerXpert teaches that the Upgrade utility provides a graphical interface that allows you to initiate, manage, and monitor upgrade sessions. At any point you can stop the Upgrade utility and restart it at a later time (E.g. see page 6, Section "How to use the Upgrade Utility"). In that BuyerXpert discloses the method that covering a method for dynamically upgrading software applications in a distributed network, comprising the steps of:

"selecting at least one component (E.g. see page 7, lines 8-9) associated with the at least one module (E.g. see page 6, lines 20-25) for upgrade";

"selecting at least one source and destination site parameter (E.g. see page 7, lines 10-12)";

"generating a profile of at least one upgrade application based upon the selected at least one module, at least one component and at least one source and destination parameter (E.g. see page 13, Figure "Select Profile Screen", function "Create New Profile" and associated text)"; and

"retrieving at least one upgrade application based upon the generated profile (E.g. see page 13, Figure "Select Profile Screen", selection box "Profiles" and associated text)".

As Per claims 2-17, the rejection of claim 1 is incorporated and are under the same reason set forth in connection of the rejection of claim 1.

As Per Claim 18, BuyerXpert teaches a system for dynamically upgrading software applications in a distributed network, that includes a profile utility upgrade module, the profile utility upgrade module comprising:

“a profile module for generating an upgrade profile (E.g. see page 13, Figure “Select Profile Screen”, function “Create New Profile” and associated text)”; and

“a delimited text extractor module for generating an import file, based upon the upgrade profile (E.g. see page 13, Figure “Select Profile Screen”, function “Drop ImpExp” and associated text)”.

As Per claims 19-21, the rejection of claim 18 is incorporated and are under the same reason set forth in connection of the rejection of claim 18.

As Per Claim 22, is the system claim corresponding to the method claim 18 and is rejected under the same reason set forth in connection of the rejection of claim 18.

As Per Claim 23, is the computer-readable medium claim corresponding to the method claim 1 and is rejected under the same reason set forth in connection of the rejection of claim 1.

7. Claims 1-3, 12-23 are rejected under 35 U.S.C. 102(e) as being anticipated by Hoyle, US Patent No. 6,628,314.

As Per Claim 1, Hoyle teaches that a method and apparatus for providing an automatically upgradeable software application that includes targeted advertising based upon demographics and user interaction with the computer. (E.g. see Abstract and associated text). In that Hoyle discloses the method that covering a method for dynamically upgrading software applications in a distributed network, comprising the steps of:

“selecting at least one module (E.g. see FIG. 13, auxiliary module 66 and associated text) for upgrade”;

“selecting at least one component (E.g. see FIG. 13, block 246 and associated text) associated with the at least one module (E.g. see FIG. 13, block 252 (auxiliary module 66) and associated text) for upgrade”;

“selecting at least one source (E.g. see FIG. 7, column “Image File” and associated text”) and destination (E.g. see FIG. 7, column “Destination Link” and associated text”) site parameter (E.g. see FIG. 7, column “Priority” and associated text”)”;

“generating a profile (E.g. see FIG. 13, block 238 and associated text) of at least one upgrade application based upon the selected at least one module, at least one component and at least one source and destination parameter”; and

“retrieving at least one upgrade application based upon the generated profile (E.g. see FIG. 13, block 250 “Download and Install New Component(s)” and associated text)”.



As Per claim 2, the rejection of claim 1 is incorporated and further Hoyle teaches:

“wherein the at least one module is at least one of ..., a rules module(E.g. see FIG. 4, ADM module 14 and associated text, e.g. col. 8:15-16, which states “ADM module 14 simply providing the basic logic and rules which govern the display and reporting functions.”), ...”.

As Per claim 3, the rejection of claim 1 is incorporated and further Hoyle teaches:

“wherein the at least one module (E.g. see FIG. 13, block 252 (auxiliary module 66) and associated text) includes at least one associated component (E.g. see FIG. 13, block 246 and associated text)”.

As Per claim 12, the rejection of claim 1 is incorporated and further Hoyle teaches:

“wherein the step of generating a profile includes the steps of:

generating an import file (E.g. see FIG. 13, “Access updated Blueprint (Import file) from ADM Server” 240 and associated text); and

downloading the import file to an import/export utility (E.g. see FIG. 13, “Access updated Blueprint from ADM Server” 240 and associated text)”.

As Per claim 13, the rejection of claim 12 is incorporated and further Hoyle teaches:

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“wherein the import file includes the selected module type information, location information, operation information and business object information (E.g. see FIG. 13, “Access Version Numbers for each Upgradeable Component in Client Application” 236 and “Generate Current Blueprint” 238 and associated text. The examiner interprets the blueprint in Client has the same format as the blueprint in ADM server)”.

As Per claim 14, the rejection of claim 1 is incorporated and further Hoyle teaches:

“including the step of running the downloaded module upgrade (E.g. see FIG. 13, block 250 and associated text)” .

As Per claim 15, the rejection of claim 1 is incorporated and further Hoyle teaches:

“including the step of indicating the status of the upgrade (E.g. see FIG. 13, block 242 and associated text)”.

As Per claim 16, the rejection of claim 1 is incorporated and further Hoyle teaches

“including the step of generating a report (E.g. see FIG. 10 “Report computer Usage Information” 182 and associated text) for the at least one upgrade application”.

As Per claim 17, the rejection of claim 1 is incorporated and further Hoyle teaches:

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“wherein the at least one upgrade utility includes at least one business object (E.g. see col. 15:11-12)”.

As Per Claim 18, Hoyle teaches that a system for dynamically upgrading software applications in a distributed network, that includes a profile utility upgrade module, the profile utility upgrade module comprising:

“a profile module for generating an upgrade profile (E.g. see FIG. 13, block 238 and block 240 and associated text. The examiner interprets the blueprint in block 238 is a profile, and blueprint in block 240 is an upgrade profile)”;

Hoyle does not explicitly disclose a delimited text extractor module for generating an import file, based upon the upgrade profile. However, Hoyle teaches a PDA module 62 that can be used to handle importing and exporting of user data between the client software application and the formats needed for use with a personal digital assistant (E.g. see col. 13:35-44). With this teaching, the “delimited text extractor module for generating an import file, based upon the upgrade profile” feature is inherent otherwise the import wizard will not be in operative.

As Per claim 19, the rejection of claim 18 is incorporated and further Hoyle teaches:

”wherein the profile module receives at least one selected module type (E.g. see FIG. 13, block 252 (auxiliary module 66) and associated text), a least one selected component type (E.g. see FIG. 13, block 246 and associated text) and at least one (E.g. see FIG. 7, column “Image File” and associated text”) and destination (E.g. see FIG. 7,

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column “Destination Link” and associated text”) parameter (E.g. see FIG. 7, column “Priority” and associated text”).

As Per claim 20, the rejection of claim 19 is incorporated and further Hoyle teaches:

“wherein the profile module generates an upgrade profile based upon the at least one selected module type (E.g. see FIG. 13, block 252 (auxiliary module 66) and associated text), a least one selected component type (E.g. see FIG. 13, block 246 and associated text) and at least one (E.g. see FIG. 7, column “Image File” and associated text”) and destination (E.g. see FIG. 7, column “Destination Link” and associated text”) parameter (E.g. see FIG. 7, column “Priority” and associated text”).

As Per claim 21, the rejection of claim 18 is incorporated and further Hoyle teaches:

“wherein the import file is uploaded to an import/export utility”. (Again, see as noted above of Claim 18, and see FIG. 4, “PDA module” 62 and associated text.)

As Per Claim 22, is the system claim corresponding to the method claim 18 and is rejected under the same reason set forth in connection of the rejection of claim 18.

As Per Claim 23, is the computer-readable medium claim corresponding to the method claim 1 and is rejected under the same reason set forth in connection of the rejection of claim 1.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hoyle in view of Bacon et al. US Patent No. 6,697,784 (herein after Bacon).

As Per claim 4, Hoyle does not explicitly disclose the workflow module is associated with a unit component. However, Bacon in an analogous art teaches “disclose the workflow module is associated with a process definitions component (E.g. see Figure 2, process definitions 207 and associated text). Therefore, it would have been obvious to incorporate the teaching of Bacon into the teaching of Hoyle to associate the workflow module with a unit component. The modification would have been obvious because one of ordinary skill in the art would have been motivated to use upgrade a process definitions component of the workflow module in the software application using a profile upgrade utility.

9. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hoyle in view of Burger et al. US Patent No. 6,779,082 (herein after Burger).

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As Per Claim 5, Hoyle does not explicitly disclose the OMS module is associated with a unit component. However, Burger in an analogous art teaches “disclose the OMS module is associated with a unit component (E.g. see Figure 1, OMS Manager unit 110a and associated text). Therefore, it would have been obvious to incorporate the teaching of Burger into the teaching of Hoyle to associate the OMS module with a unit component. The modification would have been obvious because one of ordinary skill in the art would have been motivated to use upgrade a unit component of the OMS module in the software application using a profile upgrade utility.

10. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hoyle in view of Fushimi et al. US Pub No. 2004/0148232 A1 (herein after Fushimi).

As Per Claim 6, Hoyle does not explicitly disclose the catalog module is associated with a unit component. However, Fushimi in an analogous art teaches “disclose the catalog module is associated with a unit component (E.g. see Page 2, Section [0015], catalog viewing permission unit). Therefore, it would have been obvious to incorporate the teaching of Fushimi into the teaching of Hoyle to associate the catalog module with a catalog views and permissions component. The modification would have been obvious because one of ordinary skill in the art would have been motivated to use upgrade a unit component of the catalog module in the software application using a profile upgrade utility.

11. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hoyle in view of Flores et al. US Patent No. 5,630,069 (herein after Flores).

As Per Claim 7, Hoyle does not explicitly disclose the rules module is associated with a workflow component. However, Flores in an analogous art teaches “disclose the rules module is associated with a unit component (E.g. see FIG. 4, block 33 “Workflow rules”, component “workflow” in block 31 and associated text). Therefore, it would have been obvious to incorporate the teaching of Flores into the teaching of Hoyle to associate the rules module with a workflow component. The modification would have been obvious because one of ordinary skill in the art would have been motivated to use upgrade a unit component of the catalog module in the software application using a profile upgrade utility.

12. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hoyle in view of McFarlin et al. US Pub No. 2002/0023001 (herein after McFarlin).

As Per Claim 8, Hoyle does not explicitly disclose the orders module is associated with a completed orders component and an in-progress orders component. However, McFarlin in an analogous art teaches “disclose the orders module is associated with a completed orders (E.g. see Page 7, Section [0083]) component and an in-progress orders (E.g. see Page 7, Section [0081]) component. Therefore, it would have been obvious to incorporate the teaching of McFarlin into the teaching of Hoyle to associate the orders module with a completed orders component and an in-progress orders component. The modification would have been obvious because one of ordinary skill in the art would have been motivated to use upgrade a unit component of the catalog module in the software application using a profile upgrade utility.

13. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hoyle in view of Styles et al. US Pub No. 2004/0098446 (herein after Styles).

As Per Claim 9, Hoyle does not explicitly disclose the membership module is associated with an organization unit component or a users group component. However, Styles in an analogous art teaches “disclose the membership module is associated with an organization units component or a users group (E.g. see FIG.5 and associated text, e.g. see page 5 Section [0062]) component. Therefore, it would have been obvious to incorporate the teaching of Styles into the teaching of Hoyle to associate the membership module with an organization unit component or a users group component. The modification would have been obvious because one of ordinary skill in the art would have been motivated to use upgrade a unit component of the catalog module in the software application using a profile upgrade utility.

14. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hoyle in view of Cason et al. US Patent No. 6,681,229 (herein after Cason).

As Per Claim 10, Hoyle does not explicitly disclose the accounting and commodity codes module is associated with an accounting codes component and a commodity codes component. However, Cason in an analogous art teaches “disclose the accounting and commodity codes module is associated with an accounting codes component and a commodity codes (E.g. see FIG.5 and associated text, e.g. see page 5 Section [0062]) component. Therefore, it would have been obvious to incorporate the teaching of Cason into the teaching of Hoyle to associate the accounting and commodity codes module with an accounting codes component and a commodity codes component.



The modification would have been obvious because one of ordinary skill in the art would have been motivated to use upgrade a unit component of the catalog module in the software application using a profile upgrade utility.

15. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hoyle in view of Murren et al. US Pub No. 2003/0167401 (herein after Murren).

As Per Claim 11, Hoyle does not explicitly disclose the permissions and commodity codes module is associated with a permission level component. However, Cason in an analogous art teaches “disclose the permissions module is associated with a permission (E.g. see FIG.5 and associated text, e.g. see page 16, Claim 36) component. Therefore, it would have been obvious to incorporate the teaching of Murren into the teaching of Hoyle to associate the permissions module with a permission component. The modification would have been obvious because one of ordinary skill in the art would have been motivated to use upgrade a unit component of the catalog module in the software application using a profile upgrade utility.

***Conclusion***

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kuo-Liang J Tang whose telephone number is 703-305-4866. The examiner can normally be reached on 8:30AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Dam can be reached on 703-305-4552. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

After October 25, 2004, examiner can be reached at new telephone number (571) 272-3705, and the examiner's supervisor, Tuan Q. Dam can be reached on (571) 272-3695.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Kuo-Liang J. Tang*

Software Engineer Patent Examiner

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PRIMARY EXAMINER**